

§ 2.172

must be recorded with the International Bureau of the World Intellectual Property Organization before it can be recorded in the Office (see § 7.22).

(b) *Partial change of ownership.* (1) In a registration resulting from an application based on section 1 or section 44 of the Act, if ownership of a registration has changed with respect to some but not all of the goods and/or services, the owner(s) may file a request that the registration be divided into two or more separate registrations. The assignment or other document changing title must be recorded in the Office. The request to divide must include the fee required by § 2.6(a)(8) for each new registration created by the division, and be signed by the owner of the registration, someone with legal authority to bind the owner (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with § 2.193(e)(2) of this chapter.

(2)(i) When the International Bureau of the World Intellectual Property Organization notifies the Office that an international registration has been divided as the result of a change of ownership with respect to some but not all of the goods or services, the Office will construe the International Bureau's notice as a request to divide. The Office will record the partial change of ownership in the Assignment Services Branch, and divide out the assigned goods/services from the registered extension of protection (parent registration), issue an updated certificate for the parent registration, and publish notice of the parent registration in the *Official Gazette*.

(ii) The Office will create a new registration number for the child registration, and enter the information about the new registration in its automated records. The Office will notify the new owner that the new owner must pay the fee required by § 2.6 to obtain a new registration certificate for the child registration. It is not necessary for the new owner to file a separate request to divide.

(iii) The Office will not divide a registered extension of protection unless the International Bureau notifies the

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Office that the international registration has been divided.

[73 FR 67774, Nov. 17, 2008, as amended at 74 FR 54910, Oct. 26, 2009]

§ 2.172 Surrender for cancellation.

Upon application by the owner, the Director may permit any registration to be surrendered for cancellation. The application for surrender must be signed by the owner of the registration, someone with legal authority to bind the owner (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter. When a registration has more than one class, one or more entire class(es) but fewer than the total number of classes may be surrendered. Deletion of fewer than all the goods or services in a single class constitutes amendment of the registration as to that class (see § 2.173), not surrender.

[74 FR 54910, Oct. 26, 2009]

§ 2.173 Amendment of registration.

(a) *Form of amendment.* The owner of a registration may apply to amend a registration or to disclaim part of the mark in the registration. The owner must submit a written request specifying the amendment or disclaimer. If the registration is involved in an *inter partes* proceeding before the Trademark Trial and Appeal Board, the request must be filed by appropriate motion to the Board.

(b) *Requirements for request.* A request for amendment or disclaimer must:

(1) Include the fee required by § 2.6;

(2) Be signed by the owner of the registration, someone with legal authority to bind the owner (e.g., a corporate officer or general partner of a partnership), or a practitioner who meets the requirements of § 11.14, and verified or supported by a declaration under § 2.20; and

(3) If the amendment involves a change in the mark: one new specimen per class showing the mark as used on or in connection with the goods or services; an affidavit or declaration under § 2.20 stating that the specimen was in use in commerce at least as

early as the filing date of the amendment; and a new drawing of the amended mark. When requested by the Office, additional specimens must be provided.

(4) The Office may require the owner to furnish such specimens, information, exhibits, and affidavits or declarations as may be reasonably necessary to the proper examination of the amendment.

(c) *Registration must still contain registrable matter.* The registration as amended must still contain registrable matter, and the mark as amended must be registrable as a whole.

(d) *Amendment may not materially alter the mark.* An amendment or disclaimer must not materially alter the character of the mark.

(e) *Amendment of identification of goods.* No amendment in the identification of goods or services in a registration will be permitted except to restrict the identification or to change it in ways that would not require republication of the mark.

(f) *Conforming amendments may be required.* If the registration includes a disclaimer, description of the mark, or other miscellaneous statement, any request to amend the registration must include a request to make any necessary conforming amendments to the disclaimer, description, or other statement.

(g) *Elimination of disclaimer.* No amendment seeking the elimination of a disclaimer will be permitted, unless deletion of the disclaimed portion of the mark is also sought.

[73 FR 67774, Nov. 17, 2008, as amended at 77 FR 30207, May 22, 2012]

§ 2.174 Correction of Office mistake.

Whenever Office records clearly disclose a material mistake in a registration, incurred through the fault of the Office, the Office will issue a certificate of correction stating the fact and nature of the mistake, signed by the Director or by an employee designated by the Director, without charge. Thereafter, the corrected certificate shall have the same effect as if it had been originally issued in the corrected form. In the discretion of the Director, the

Office may issue a new certificate of registration without charge.

[73 FR 67774, Nov. 17, 2008]

§ 2.175 Correction of mistake by owner.

(a) Whenever a mistake has been made in a registration and a showing has been made that the mistake occurred in good faith through the fault of the owner, the Director may issue a certificate of correction. In the discretion of the Director, the Office may issue a new certificate upon payment of the required fee, provided that the correction does not involve such changes in the registration as to require republication of the mark.

(b) An application for such action must:

(1) Include the following:

(i) Specification of the mistake for which correction is sought;

(ii) Description of the manner in which it arose; and

(iii) A showing that it occurred in good faith;

(2) Be signed by the owner of the registration, someone with legal authority to bind the owner (e.g., a corporate officer or general partner of a partnership), or a practitioner who meets the requirements of § 11.14 of this chapter, and verified or include a declaration in accordance with § 2.20; and

(3) Be accompanied by the required fee.

(Sec. 7, 60 Stat. 430, as amended; 15 U.S.C. 1057)

[30 FR 13193, Oct. 16, 1965, as amended at 31 FR 5262, Apr. 1, 1966; 69 FR 51364, Aug. 19, 2004; 73 FR 67774, Nov. 17, 2008]

§ 2.176 Consideration of above matters.

The matters in §§ 2.171 to 2.175 will be considered in the first instance by the Post Registration examiners, except for requests to amend registrations involved in *inter partes* proceedings before the Trademark Trial and Appeal Board, as specified in § 2.173(a), which shall be considered by the Board. If an action of the examiner is adverse, the owner of the registration may petition the Director to review the action under § 2.146. If the owner does not respond to an adverse action of the examiner within six months of the date of